

## INTRADEPARTMENTAL CORRESPONDENCE

June 9, 2020  
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TO: The Honorable Board of Police Commissioner

FROM: Chief of Police

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OFFICE OF THE INSPECTOR GENERAL

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SUBJECT: OFFICER INVOLVED SHOOTING FID NO. 041-19

Honorable Members:

The following is my review, analysis, and findings for Officer Involved Shooting (OIS), Force Investigation Division (FID) No. 041-19. A Use of Force Review Board (UOFRB) was convened on this matter on May 18, 2019. I have adopted the recommendations from the UOFRB for this incident. I hereby submit my findings in accordance with Police Commission policy.

### SUMMARY<sup>1</sup>

On August 18, 2019, Officers A. Mott, Serial No. 42551, and M. Malone, Serial No. 42698, Hollenbeck Area, Special Problems Unit (SPU), were in full uniform, driving a marked black and white police vehicle (**Additional/Equipment– Required Equipment and DICVS Activation**).

At approximately 2317 hours, Officers Mott and Malone were assigned to conduct crime suppression and were driving in the area of Ithaca Avenue and Lombardy Boulevard, due to a *spike* in crime, such as robberies and shootings, from local *gang feuds* involving the El Sereno gang.<sup>2</sup>

According to Officer Mott, he and Officer Malone were partners for approximately *one year*. Officers Mott and Malone had previously discussed *tactics, pedestrian stops, vehicle stops, armed suspects, perimeters, containment*, and incidents involving a suspect that *turns and shoots* at them while they are in their police vehicle. Officers Mott and Malone, on the day of the incident, discussed that the *driver* officer would be the *contact* officer while the *passenger* officer would be *cover*. Officer Mott stated they discussed that the fluidity of their *tactics* would depend on the situation. On the day of the incident, Officer Mott was the driver, and *contact* officer, while Officer Malone was the passenger, and *cover* officer.

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<sup>1</sup> The summary and the investigation completed by FID for this incident have been provided to the Board of Police Commissioners.

<sup>2</sup> Gang related activity in the areas related to the El Sereno gang one month prior to this incident included a shots fired incident on July 24, 2019, in Reporting District (RD) 0418, assault with a deadly weapon on July 29, 2019, in RD 0438, and a robbery on August 7, 2019, in RD 0409.

According to Officer Mott, he was driving *southbound on Lombardy Boulevard toward Alhambra Avenue* with both front windows down. Officer Mott observed a *male*, later identified as Suspect R. Gabriel, *walking southbound on the east sidewalk of Lombardy Boulevard, towards Alhambra Avenue at a slow pace.*

**Note:** The FID investigation revealed Officer Malone first observed Gabriel as they were on Ithaca Avenue, facing eastbound, approaching Lombardy Boulevard. As Officer Mott turned southbound onto Lombardy Boulevard from Ithaca Avenue, Officer Morales utilized his passenger side spotlight to illuminate Gabriel. Officer Morales turned off his spotlight once they reached Alhambra Avenue.

According to Officer Mott, he did not observe Gabriel commit a *violation and* did not plan on *stopping* Gabriel. Officer Mott continued driving southbound on Lombardy Boulevard where he stopped his police vehicle in the lane closest to the center divider, at the north crosswalk of Lombardy Boulevard and Alhambra Avenue for the red phase tri-light on Alhambra Avenue.

According to Officer Mott, when Gabriel approached the northeast corner of Alhambra Avenue and Lombardy intersection, he *illuminated* Gabriel with his *flashlight* as Gabriel stood on the *east sidewalk nearest to the east curb*, at an approximate distance of *twenty feet*. *As he did that*, Gabriel turned his body to the *right*, in a westerly *direction*, looked *directly* at Officer Mott, and utilized his *right hand* to *pull a firearm out of his right front pocket*. Gabriel *took one step forward and fired one round* at Officer Mott's *police vehicle*.<sup>3</sup>

According to Officer Malone, he believed Gabriel was approximately *five to ten* feet away from the driver door of their police vehicle when he fired.

**Note:** The FID investigation revealed Gabriel fired from approximately nine feet east of, and parallel to, Officer Mott's front driver door.

According to Officer Mott, after Gabriel shot at them, Gabriel ran *north toward the back* of his police vehicle. Officer Mott accelerated and drove forward *through the Alhambra Avenue and Lombardy Boulevard intersection* to create *distance* between himself and Gabriel. Almost instantaneously, Officer Mott looked through his *left-side mirror* and observed Gabriel *running northbound, along the parked cars on the west side of Lombardy Avenue and turn westbound into the east/west alley* where Officer Mott *lost sight of him*. Officer Mott negotiated a *U-turn*, and drove northbound on Lombardy Boulevard, passing through the Lombardy Boulevard and Alhambra Avenue intersection to the alley where he last saw Gabriel.

The FID investigation revealed that while running north, Gabriel turned his upper body in the direction of the officers, with his arms raised in an apparent two-hand shooting position. Force Investigation Division investigators later discovered that Gabriel did not discharge additional rounds at that time. However, two live 9mm cartridges were recovered from the area and a Cycle Mark Comparison was completed, verifying the live rounds were from Gabriel's firearm.

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<sup>3</sup> The FID investigation revealed the round struck the window trim of the front driver side door of the police vehicle and exited through the front passenger's side window.



According to Officer Malone, he *believed* Gabriel was *trying to kill* him and Officer Mott. Officer Malone *believed the situation had escalated to the point where deadly force was justified*. Officer Malone *unholstered* his service pistol as Officer Mott drove north through the Alhambra Avenue and Lombardy Boulevard intersection. Officer Malone *simultaneously* took hold of his *in-shop radio*<sup>4</sup> and broadcast to Communications Division (CD), "Q26, Officer needs help. I'm at Lombardy and Alhambra. Shots fired, shots fired. It's going to be a male Hispanic. He's going to be running westbound through the alley, west of Lombardy and north of Alhambra. Male Hispanic. He's wearing black over blue," **(Drawing/Exhibiting)**.<sup>5</sup>

Officer Mott believed the situation was going to *escalate to deadly force* since Gabriel *had already shot* at them *once*. Officer Mott unholstered his service pistol with his right hand as he maneuvered his police vehicle with his left hand **(Drawing/Exhibiting and Additional Tactical Debrief Topic – Driving While Maintaining Control of a Service Pistol)**.

According to Officer Mott, after looking westbound down the alley, he did not see Gabriel. Officer Mott discussed a plan with Officer Malone to set up *containment* on the *west side* of the street **(Additional Tactical Debrief Topic – Basic Firearms Safety Rules and Situational Awareness)**.

According to Officer Malone, when they returned to the alley where Gabriel was last seen, only *a few seconds after* his initial help broadcast, he observed Gabriel *running westbound* about *one hundred feet* west in the alley, from Lombardy Boulevard. Officer Malone requested over Hollenbeck base frequency for responding officers to set up a perimeter in the area. **(Additional Tactical Debrief Topic – Tactical Communication)**.

The FID investigation revealed Gabriel ran west into the east/west alley, then turned and ran southbound through the driveway of a business (one location west of Lombardy Boulevard). Unbeknownst to Officers Mott and Malone, after exiting that driveway, Gabriel ran west on the north sidewalk of Alhambra Avenue.

According to the FID investigation, the following personnel responded to Officer Malone's help call: Officers V. Mencias, Serial No. 37050, O. Hernandez, Serial No. 43638; Officers E. Artiaga, Serial No. 40509, G. Arias, Serial No. 41487; Officers J. Solis, Serial No. 43782, R. Gonzalez, Serial No. 37014, along with Sergeants J. Covarrubias, Serial No. 35443, J. Vazquez, Serial No. 30976; and D. Grant, Serial No. 34715, and Lieutenant M. Bautista, Serial No. 32051, Hollenbeck Patrol Division.

According to Officer Mott, he continued *north on Lombardy Boulevard*, negotiated a westbound turn onto Ithaca Avenue, then turned *southbound* onto Belleglade Avenue *toward Alhambra Avenue*. After stopping at the entrance on the west side of the east/west alley, Officer Mott did

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<sup>4</sup> Police Radio Microphone

<sup>5</sup> Cycle Mark Comparison – A forensic analysis of a round casing comparison against the tooling marks of a firearm to identify transfer markings.

not see Gabriel and therefore continued to Alhambra Avenue (**Additional Tactical Debrief Topic – Occupying a Moving Vehicle with a Service Pistol Drawn and Tactical Vehicle Deployment**).

The FID investigation revealed that Officer Malone broadcast a request for an air ship in addition to his initial help broadcast. Simultaneously, while Officer Malone was broadcasting his second request, Officers M. Digangi, Serial No. 40679, and R. Sanchez, Serial No. 37805, Air Support Division (ASD), Air 18, arrived at the intersection of Lombardy Boulevard and Alhambra Avenue as a result of the initial help broadcast which was the last known location of Officers Mott and Malone. Officers Digangi and Sanchez' arrival occurred simultaneously as Officers Mott and Malone arrived at the northeast corner of Belleglade Avenue and Alhambra Avenue.

According to Officer Mott, when he approached the intersection of Belleglade Avenue and Alhambra Avenue he *looked eastbound* on Alhambra Avenue and observed Gabriel *walking toward* their police vehicle on the north sidewalk, in a *westbound* direction. Officer Mott *verbalized* to Officer Malone stating, "Right here." Officer Mott exited his vehicle and began redeploying towards a *building on the northeast corner*.<sup>6</sup> Officer Mott utilized his tactical light attachment on his service pistol to illuminate the sidewalk in an easterly direction (**Additional Tactical Debrief Topics – Tactical Communications, Updating Status, and Maintaining a Service Pistol while Placing Vehicle in Park**).

According to Officer Malone, he heard Officer Mott *saying something* when they exited their vehicle *but could not make out what he was saying* and could not see Gabriel. Officer Malone *walked away from his vehicle toward a line of cars parked on the north side of the curb to maintain cover and to obtain a visual of Gabriel* (**Debriefing Point No. 1**).

According to Officer Mott, as he attempted to redeploy toward the *building*, Gabriel began *firing at him* from approximately *fifty or sixty yards*. Officer Mott observed Gabriel *take cover behind a tree*.<sup>7</sup> Officer Mott utilized a *two-handed grip* on his service pistol and fired *two or three rounds* at Gabriel's *center mass* in an *eastbound direction* (**Lethal Force – Sequence-One and Debriefing Point No. 1**).<sup>8</sup>

**Note:** The FID investigation revealed Officer Mott fired in three separate sequences, with a total of eight rounds.

According to the FID investigation, Officer Mott's first sequence consisted of two rounds.

The FID investigation revealed Officer Malone began broadcasting Gabriel's location after exiting his police vehicle. However, he stopped broadcasting when Gabriel began firing. Communications Division broadcast a shots fired call and gave a location of Lombardy Boulevard and Alhambra Avenue. Officers Digangi and Sanchez responded in the air unit and

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<sup>6</sup> The FID investigation revealed the location to be 5115 Alhambra Avenue.

<sup>7</sup> Gabriel took cover behind a tree later determined by FID investigators to be a 5127 Alhambra Avenue.

<sup>8</sup> The FID investigation revealed Officer Mott fired from an approximate distance of 133 feet and eight inches.



arrived at Officers Mott and Malone's last known location of Lombardy Boulevard/Alhambra Avenue. Therefore, they did not see the OIS occur.

According to Officer Mott, Gabriel was still taking cover *behind the tree*. Officer Mott observed Gabriel's *silhouette from the waist up* which included *his arm, upper body, and head*. Officer Mott utilized a *two-handed grip*, obtained a sight picture of Gabriel's *center mass*, and fired *about four or five rounds* at the *center mass of Gabriel's body*, in an *east* direction (**Lethal Force Sequence – Two** and **Additional Tactical Debrief Topic – Fire Control Discipline**).<sup>9</sup>

**Note:** The FID investigation revealed Officer Mott fired his second sequence consisting of two rounds.

According to Officer Mott, he stepped *on top of an elevated platform* to his left to get a *better visual* of Gabriel. While Officer Mott did so, Gabriel fired *at least one round* in his direction. As Gabriel fired, Officer Mott heard a *window shattering* from a business on the *northwest corner* of the intersection. Officer Mott utilized a *two-handed grip* and *returned fire again* at Gabriel's *center mass* (**Lethal Force Sequence – Three**).

**Note:** The FID investigation revealed Officer Mott fired his third sequence consisting of four rounds.

According to Officer Malone after he exited the police vehicle, he *heard one or two shots* being fired and observed *muzzle flash*, which *illuminated* Gabriel. Officer Malone *redeployed back to his police vehicle for cover*. Officer Malone believed Gabriel *was trying to kill him* and Officer Mott. Officer Malone wanted to protect himself and his partner from the *eminent threat of death or serious bodily injury*. Approximately two seconds after he heard Gabriel fire, Officer Malone utilized a two-hand grip and fired his service pistol *once*, in an *easterly* direction. After a *tiny lull*, Officer Malone reassessed then *continued firing approximately six rounds to stop the threat*. Officer Malone stated that he ceased fire when he observed Gabriel *running in a southeast direction in the street* on Alhambra Avenue (**Lethal Force**).<sup>10</sup>

**Note:** The FID investigation revealed that Officer Malone fired seven rounds in one sequence.

According to the FID investigation, four live rounds and three discharged rounds were recovered from the area where Gabriel was standing. The rounds were determined, after a Cycle Mark Comparison, to have been from Gabriel's handgun.

According to Officer Mott, he observed Gabriel *running southbound across Alhambra Avenue*. Officer Mott stepped *off the elevated platform* and returned to his police vehicle. Officer Mott broadcast to the *airship* that Gabriel was *eastbound*. He and Officer Malone re-entered their police vehicle and *drove eastbound from Belleglade Avenue toward Lombardy Boulevard*,

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<sup>9</sup> The FID investigation revealed Officer Mott fired from an approximate distance of 131 feet, 8 inches.

<sup>10</sup> The FID investigation revealed Officer Malone fired in an easterly direction from an approximate distance of 152 feet.

stopping *mid-block* when Gabriel was observed crossing Alhambra Avenue. Officer Mott observed Gabriel *shedding* his *black hoodie* which revealed that he was wearing a *white shirt* and broadcast that information as the officers exited their police vehicle and followed Gabriel on foot (**Debriefing Point No. 1**).

The FID investigation later revealed Witness C. Gonzalez was driving east on Alhambra Avenue toward Lombardy Boulevard when he observed Gabriel, crossing the street from the north side of Alhambra Avenue to the south side. Witness Gonzales stated Gabriel was walking south when he pointed a handgun in his direction. Believing Gabriel was going to shoot him, he ducked and continued eastbound.<sup>11</sup>

According to Officer Hernandez, he was the passenger and his partner, Officer Mencias was the driver of their marked black and white police vehicle. Officer Hernandez stated they were responding to the *help call* and heard *gunfire over the radio*. As Officer Hernandez and Officer Mencias were turning onto *Alhambra Avenue* from *Lombardy Boulevard*, Officer Hernandez observed *two officers coming toward their direction* and *heard* an unidentified officer state, "Stop, stop, stop," over the police radio; wherein Officer Mencias stopped their police vehicle. Simultaneously as Officer Hernandez *was about to exit*, he heard someone say, "Behind you." Officer Hernandez unholstered his service pistol and exited the police vehicle (**Drawing/Exhibiting and Additional/Equipment – Required Equipment**).

According to Officer Hernandez, as he exited the police vehicle, he observed Gabriel *standing south* of him, *staring straight* at him and *pointing a firearm north*, at him, from an approximate distance of *two car lengths*. Gabriel was *holding the gun* in a *shooting motion* with *his hands raised towards his upper chest* and his *whole-body* in a *shooting stance*. Officer Hernandez was *in fear for his life* and believed Gabriel was an *immediate threat* and was going to *kill him*. Officer Hernandez utilized a two-hand grip and *fired one* round at Gabriel. After firing, Officer Hernandez *ducked* and took *cover* behind his police vehicle's rear panel (**Lethal Force – Sequence-One**).

**Note:** The FID investigation revealed Officer Hernandez fired at total of seven rounds, in two separate sequences.

The FID investigation revealed Officer Hernandez' first sequence consisted of one round.

According to Officer Hernandez, after taking cover, he *came back out*, about a *split second later*, and observed Gabriel was *still* pointing the firearm at him. Officer Hernandez fired four more rounds at Gabriel. Officer Hernandez observed Gabriel *drop down* to the ground and observed that Gabriel's handgun was *down* on the ground as well. However, Gabriel even while on the ground was utilizing a *grabbing motion* to reach his handgun (**Lethal Force – Sequence-Two and Additional/Equipment – Profanity**).

**Note:** The FID investigation revealed Officer Hernandez' second sequence was six rounds.

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<sup>11</sup> The FID investigation revealed an Investigative Report was later completed for Witness Gonzalez.



According to the FID investigation, all of Officer Hernandez' seven rounds (Sequence-One and Sequence-Two) were fired in approximately two seconds.

According to Officer Mencias, he exited his vehicle and *heard* gunshots. While unholstering his service pistol, he redeployed around to his police vehicle and took *cover* behind the rear panel, next to Officer Hernandez. Officer Mencias could *not see* Gabriel and did not observe Officer Hernandez's OIS (**Drawing/Exhibiting**).

According to Officer Mott, he and Officer Malone continued walking eastbound towards Officers Hernandez and Mencias to join them. Due to their distance, they did not observe the OIS involving Officer Hernandez occur.

According to Officer Artiaga, he and Officer Arias responded to the location and, not knowing the officers at scene had *come back* eastbound, drove past them, inadvertently creating a momentary *crossfire* situation. Officer Artiaga stated he believed it was best to continue past them and not *stop* directly between the officers and Gabriel. Officers Artiaga and Arias passed the officers, then stopped their police vehicle, and joined them to assist taking Gabriel into custody (**Additional Tactical Debrief Topic – Situational Awareness and Stepping on Limbs**).

According to Officer Mott, he approached Gabriel alongside Officers Malone, Hernandez, Mencias, Artiaga, and Arias. Officer Mott observed Gabriel was still moving and that his handgun was within Gabriel's reach. Officer Mott holstered his service pistol and to prevent Gabriel from rearming himself, utilized his left foot to slide the handgun two feet north from its original position (**Additional Tactical Debrief Topic – Situational Awareness and Preservation of Evidence**).<sup>12</sup>

According to Officer Hernandez, he was directed by Officer Mencias to take Gabriel into custody. Officer Hernandez holstered his service pistol and placed handcuffs on Gabriel (**Additional Tactical Debrief Topic – Searches of Arrestees, Additional/Equipment – Profanity and Blood Borne Pathogens**).

The FID investigation revealed that Officer Malone requested a Rescue Ambulance (RA) for Gabriel at this time. However, his broadcast was not captured on Hollenbeck base frequency. Simultaneously, Air 18 also requested an RA for Gabriel, which was captured over Hollenbeck base frequency. (**Additional/Equipment – Profanity and Radio Code Procedures**).<sup>13</sup>

According to the FID investigation, Captain T. Rindge, Engineer J. Hart, Firefighter/Paramedics F. Gomez and A. Vilchis, Los Angeles Fire Department Engine Number 16, arrived at scene. Firefighter/Paramedics F. Bish and E. Villarreal, RA 47, arrived and treated Gabriel. Gabriel was transported to Los Angeles County, University of Southern California Medical Center

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<sup>12</sup> The FID investigation revealed Gabriel's handgun was originally two feet north of his right hand.

<sup>13</sup> The FID investigation revealed Twenty-two seconds had elapsed since Officer Hernandez' OIS

(LAC + USCMC). Officer Solis rode in the back of the RA with Gabriel while Officer Gonzalez followed behind in his police vehicle.

Sergeant Covarrubias arrived at scene and immediately identified and separated Officers Mott, Malone, Hernandez, and Mencias. Sergeant Covarrubias ensured a crime scene was set up by responding officers and requested additional supervision for assistance with monitoring duties. Sergeant Covarrubias obtained a Public Safety Statement (PSS) from Officer Malone  
**(Additional/Equipment – Documentation of Categorical Use of Force).**

Lieutenant Bautista met with Sergeant Covarrubias. Lieutenant Bautista declared himself the incident commander and communicated this change with Sergeant Covarrubias.

Sergeant Vazquez responded, separated, monitored and obtained a PSS from Officer Hernandez.

Sergeant Grant responded, separated, monitored and obtained a PSS from Officer Mott.

The FID investigation revealed Gabriel was later pronounced deceased by Doctor Grzybowski, LAC+USCMC.

## **FINDINGS**

**Tactics** – Tactical Debrief, Officers Mott, Malone, Mencias, and Hernandez.

**Drawing/Exhibiting** – In Policy, No Further Action, Officers Mott, Malone, Mencias, and Hernandez.

**Lethal Use of Force** – In Policy, No Further Action, Officers Mott, Malone, and Hernandez.

## **ANALYSIS<sup>14</sup>**

### **Detention**

Officers Mott and Malone were conducting crime suppression when they observed a male, later identified as the suspect, officers Mott and Malone noted the suspect had not committed any violations; therefore, they did not attempt to detain the suspect. Officers Mott and Malone were parked at a red-phase tri-light with the windows of their police vehicle down. The suspect approached their marked police vehicle and fired one round at the police vehicle. The round struck the driver side front door, traveled through the vehicle, and exited the front passenger door's open window. Officer Mott drove away from the suspect. Simultaneously, the suspect ran into a nearby alley. Officer Mott could no longer see the suspect and redeployed to the west side of the alley to set up containment. The suspect re-approached Officers Mott and Malone and fired three rounds at them before running away eastbound. Officers Hernandez and Mencias

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<sup>14</sup> The analysis reflects my recommendations as supported by the preponderance of the evidence established by the investigation.



arrived and the location. Officer Hernandez observed the suspect pointing a firearm at him. Officer Hernandez fired at the suspect until the suspect dropped his firearm. The suspect was taken into custody without further incident. The actions of Officers Mott, Malone, Hernandez, and Mencias were appropriate and within Department policies and procedures.

## **Tactics**

Department policy relative to a Tactical Debrief is: *"The collective review of an incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved. The intent of a Tactical Debrief is to enhance future performance."*

Department policy relative to Administrative Disapproval is: *"A finding, supported by a preponderance of the evidence that the tactics employed during a CUOF incident unjustifiably and substantially deviated from approved Department tactical training"* (Los Angeles Police Department Manual, Volume 3, Section 792.05).

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

## Tactical De-Escalation

*Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation.*

### Tactical De-Escalation Techniques

- **Planning**
- **Assessment**
- **Time**
- **Redeployment and/or Containment**
- **Other Resources**
- **Lines of Communication** (Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officers Mott and Malone, having been partners for approximately one year, had previously discussed tactics, pedestrian stops, vehicle stops, armed suspects, perimeters, and containment. Officer Mott stated he and Malone had decided they would drive past a suspect in an ambush situation. On the day of the incident, Officers Mott and Malone had also determined

the driver would be the contact officer while the passenger would be the cover officer. After the suspect ambushed the officers and fired at them, the officers enacted their pre-discussed plan and drove away from the suspect. When they could not see the suspect once he ran into the alley, Officers Mott asked Officer Malone what he wanted to do. Together, they planned to set up containment and immediately began setting up a perimeter.

**Assessment** – Officers Mott and Malone, while being fired upon by the suspect, individually assessed their available cover at the corner of Belleglade Avenue and Alhambra Avenue. In addition, Officers Mott and Malone both assessed between each round fired and had paused between sequences of fire. Officer Hernandez exited his police vehicle and observed that the suspect facing him, pointing a firearm at him. Officer Hernandez, after firing one round, assessed and simultaneously took cover. After seeing the suspect was still a deadly threat, Officer Hernandez fired additional rounds, continually assessing, until observing the suspect had fallen and his firearm was pointed downward. Officer Mencias, while not seeing anyone fire their service pistols, assessed his environment and heard shots being fired.

During the discharging of their service pistols, Officers Mott, Malone, and Hernandez continued to assess the incident and ceased firing when the suspect ceased posing a threat of serious bodily injury or death.

**Time** – Officers Mott and Malone, having been ambushed, used their limited time to create distance between themselves and the suspect. Officers drove through and out of the ambush rather than engaging in an OIS. Doing so allowed them to gain more time to create a tactical plan and to set up containment to effectively apprehend the suspect. As the officers were attempting to establish a containment perimeter and a slower paced well-coordinated response to the incident, the actions of the suspect continued to escalate; thereby reducing the time available to the officers.

**Redeployment and/or Containment** – After Officers Mott and Morales were fired upon by the suspect, Officer Mott drove away from their location to escape the deadly assault and redeploy so their police vehicle would be facing the suspect which would allow the officers to use their ballistic panels for cover. After seeing that that suspect fled into the alley, the officers redeployed to set up containment on the west end of the alley. Officer Mencias did not see the suspect's location, but due to Officer Mott's warning, immediately redeployed to the rear of his vehicle for cover. Officers attempted to contain the suspect, but the suspect continued to move which resulted in an additional OIS.

**Lines of Communication** – Officer Morales broadcast a shots fired call, a suspect description, and requested officers for a perimeter. After arriving at Belleglade Avenue and Alhambra Avenue, Officer Morales began broadcasting their location but was interrupted by the suspect's gunfire. The shortened broadcast lead to CD utilizing the last known location of the officers for their follow up broadcast. Responding officers were left unaware of Officers Mott and Morales' follow up location. However, even after being fired upon for a second time, Officer Morales resumed his broadcast while redeploying to cover.



The UOFRB noted, and I concur, that due to the rapidly unfolding nature of this incident, the officers had limited time to react to the suspect's actions. Officers Mott, Malone, Hernandez and Mencias were required to make quick tactical decisions while being mindful of community safety. Officers Mott and Morales articulated a thorough assessment of their background at the time of their OIS. Officers Mott, Malone, Hernandez, and Mencias reacted quickly in stopping the deadly actions of the suspect.

During the review of the incident, the following Debriefing Topics were noted:

**Debriefing Point No. 1      Utilization of Cover**

*Cover is defined as any object or structure that will stop the opponent's bullets. Officers should attempt to move to and use available cover when involved in any tactical situation and especially when there are weapons involved. Officers should be aware of what items in their surrounding area can be used as cover and what type of cover is required to stop specific rounds (handgun, shotgun, or rifle rounds) (Los Angeles Police Department, Basic Firearms Manual, July 2015).*

*Whenever possible, officers should place an object between themselves and the suspect as cover or a barrier. A barrier could be a chain link fence, wrought iron gate or any similar object that prevents the assailant from reaching the officer. If the suspect is contained and does not pose an immediate threat to officers, the public or himself/herself, time is our best tool. Time allows more opportunity to communicate with the suspect and helps to calm the situation (Los Angeles Police Department, Training Bulletin, Volume XLVI, Issue 3, Weapons Other Than Firearms, October 2017).*

Officers Mott and Malone did not redeploy to positions of cover when approaching the armed suspect and when firing their service pistols at him.

The utilization of cover, coupled with distance, enables an officer to confront an armed suspect while simultaneously minimizing their own exposure. As a result, the overall effectiveness of a tactical incident can be enhanced, while also increasing an officer's tactical options by using available cover.

In this case, Officers Mott and Malone's actions were viewed in light of the suspect's deadly and persistent actions. Officers Mott and Malone left the cover of the ballistic panels of their police vehicle and moved to other positions of cover that would improve their ability to observe the suspect. While moving to their positions of cover, they were again fired upon by the suspect. The UOFRB noted they would have preferred the officers to have been behind cover, but recognized that officers are trained to move away from their police vehicles in ambush incidents. Also, the UOFRB noted the suspect continued to approach the officers and fire at them, making him a persistent and deadly threat. The UOFRB recognized the suspect's threat to not only the officers, but also to nearby citizens. In this case, it was understandable for Officer Mott to prioritize obtaining a sight picture with his service pistol to stop the threat, over gaining cover. Officer Mott obtained a sight picture of the suspect by utilizing an elevated platform to fire at the

suspect. The UOFRB recognized that high ground was more important at the time. It should also be noted that the suspect had already targeted both Officers Mott and Malone while they were seated inside of their police vehicle. The police vehicle was a highly visible target for the suspect, if he chose to continue to target it.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that Officers Mott and Malone's actions were reasonable given the deadly actions of the suspect and did not deviate from approved Department tactical training. In order to enhance future performance, I will direct that this be a topic of discussion during the Tactical Debrief.

### **Additional Tactical Debrief Topics**

**Tactical Vehicle Deployment** – Officers Mott and Malone stopped their police vehicle in the middle of the crosswalk in the suspect's path and line of sight. Even though the police vehicle affords ballistic protection, he officers are reminded, when possible, to attempt to position their police vehicle in a manner that is most advantageous to their safety, wherein they maintain the tactical advantage. I will direct this to be a topic of discussion during the Tactical Debrief.

**Driving while Maintaining Control of a Service Pistol** – Officer Mott unholstered his service pistol and held it in his right hand as he drove his police vehicle with his left hand. In this case, Officers Mott and Malone had been ambushed and fired upon by the suspect. While the UOFRB noted this would be allowed under certain circumstances, such as an ambush, officers are reminded there is a heightened concern for safety when maneuvering a police vehicle while holding a service pistol. I will direct this to be a topic of discussion during the Tactical Debrief.

**Basic Firearms Safety Rules** – Officers Mott and Malone simultaneously pointed their service pistols in a westerly direction towards the alley where Gabriel was last seen while seated in their patrol vehicle, resulting in Officer Malone momentarily covering Officer Mott with his service pistol. Although the officers had just been fired upon, officers are still reminded of basic firearms safety rules. I will direct this to be a topic of discussion during the Tactical Debrief.

**Tactical Communication** – Officer Mott deployed from his police vehicle to engage an armed suspect, while Officer Malone attempted to confirm with Officer Mott of the suspect's location. Although Officer Mott did advise Officer Malone the suspect's location as Officer Mott exited the police vehicle, Officer Malone was left unaware of the suspect's specific location until the suspect fired at the officers. Officers are reminded of the importance of effective communication between partners during a tactical incident to reduce possible confusion and improve operational success. I will direct this to be a topic of discussion during the Tactical Debrief.

**Occupying a Moving Vehicle with a Service Pistol Drawn** – Officer Malone was seated in the passenger seat of the police vehicle with his service pistol drawn as Officer Mott drove to their follow up location. Although in this case the officers did not know the location of the armed suspect, officers are still reminded of risk of an unintentional discharge while being unholstered in a moving vehicle and the concern for safety. In order to enhance future performance, I will direct this to be a topic of discussion during the Tactical Debrief.



**Updating Status** – Officers Mott and Malone did not update their locations until after they engaged the armed suspect, leaving communications unaware of their location. The FID investigation revealed that the distance from Officer Mott and Malone's original location to their follow-up location was approximately 290 yards. Although the follow-up location was in visual sight of their original location, officers are reminded of the importance of updating their status not only for their safety, but the safety of responding officers. I will direct this to be a topic of discussion during the Tactical Debrief.

**Situational Awareness** – Officers Mott and Malone, after being ambushed, drove away from the location, conducted a U-Turn and returned to the last known location of the armed suspect as he had disappeared from their view. In doing so, Officers Mott and Malone placed themselves in a similarly disadvantageous position in which they were originally fired upon. Officers are reminded in the wake of an ambush, to utilize time and distance when returning to the immediate vicinity. Officers Artiaga and Arias responded to the incident and drove directly towards and through the OIS location, causing them to drive in the line of fire between the officers and the suspect. Although the incident was extremely dynamic and unfolding rapidly, officers are reminded of the importance of ensuring they have a good understanding of the circumstances and location of the officers requesting help upon their arrival. I will direct this to be a topic of discussion during the Tactical Debrief.

**Maintaining a Service Pistol While Placing Vehicle in Park** – Officer Mott utilized his left hand to reach over and place his police vehicle in park while his service pistol was in his right hand. Officers are reminded there is a heightened concern for safety when holding a service pistol in one hand and utilizing the other hand to place a vehicle in park. I will direct this to be a topic of discussion during the Tactical Debrief.

**Fire Control Discipline** – The investigation revealed that Officer Hernandez discharged seven rounds from his service pistol in approximately two seconds. Officer Hernandez stated that he observed that Gabriel was looking at him and pointing a firearm at Officer Hernandez. The UOFRB noted that Officer Hernandez paused between discharging his rounds. While this was an extremely dynamic incident, Officer Hernandez is reminded of the importance of fire control discipline to maximize his accuracy by utilizing time to his advantage, when possible. I will direct this to be a topic of discussion during the Tactical Debrief.

**Radio Codes and Procedures** – Officers Mott and Malone's broadcasts were incomplete due to multiple officers broadcasting simultaneously. During the UOFRB, FID investigators presented five transmissions had not been broadcast during the incident. A further analysis confirmed that the incomplete transmissions were due to multiple officers broadcasting simultaneously, as well as the Radio Telephone Operator (RTO) conducting broadcasts.<sup>15</sup> Officers Mott and Malone are reminded to monitor the frequency when broadcasting to ensure that their broadcasts are completed. I will direct this to be a topic of discussion during the Tactical Debrief.

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<sup>15</sup> Senior Police Service Representative I R. Lopez, Serial No. N3005, CD, conducted a New Intel Computer Engineering (NICE) Systems inquiry to complete the analysis.

**Searches of Arrestees** – Officer Hernandez did not complete a full search of Gabriel upon his arrest. Although this was during a dynamic incident which involved an OIS, Officer Hernandez is reminded of the importance of thoroughly searching a suspect was known to have been armed with a firearm. I will direct this as a topic of discussion during the Tactical Debrief.

**Stepping on Limbs** – Officer Arias utilized his foot to apply bodyweight on Gabriel's ankles as Gabriel was being taken into custody. Although Gabriel had just fired his handgun at officers and was being taken into custody, Officer Arias is reminded that stepping on limbs can lead to a loss of balance. In addition, this action can cause a negative impact to the public's perception of the Department. I will direct this to be a topic of discussion during the Tactical Debrief.

**Blood Borne Pathogens** – Officer Hernandez took Gabriel into custody without utilizing Personal Protective Equipment (PPE) despite Gabriel having blood on his chest. Officers are reminded to utilize PPE's, when feasible, to prevent the spread of blood borne pathogens. I will direct this to be a topic of discussion during the Tactical Debrief.

**Preservation of Evidence** – Officer Mott placed his left foot on Gabriel's firearm, which was in the slide lock position, and moved it two feet north from its original position.<sup>16</sup> Officer Mott stated that he did so since he observed Gabriel moving and the firearm was approximately two feet away from Gabriel. Officer Mott is reminded that whenever tactically feasible, it is preferable to have an uninvolved officer guard evidence and leave it undisturbed until FID investigators can properly document and preserve the scene. I will direct this to be a topic of discussion during the Tactical Debrief.

**Required Equipment** – Officers Mott, Malone, Hernandez, and Macias left their side-handle baton in their police vehicles at the time of the incident. Officer Mencias did not have his Hobble Restraint Device (HRD) on him. Officers are reminded to have all required equipment on their person at all times to allow for the availability of alternative force options in the event they are needed. I will direct this to be a topic of discussion during the Tactical Debrief.

## **Command and Control**

*Command and Control is the use of active leadership to direct others while using available resources to coordinate a response, accomplish tasks and minimize risk. Command uses active leadership to establish order, provide stability and structure, set objectives and create conditions under which the function of control can be achieved with minimal risk. Control implements the plan of action while continuously assessing the situation, making necessary adjustments, managing resources, managing the scope of the incident (containment), and evaluating whether existing Department protocols apply to the incident.*

*Command and Control is a process where designated personnel use active leadership to command others while using available resources to accomplish tasks and minimize risk.*

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<sup>16</sup> When a firearm is in the slide lock position (the slide of the firearm is locked open), the firearm should not be able to discharge a round.



*Active leadership provides clear, concise, and unambiguous communication to develop and implement a plan, direct personnel and manage resources. The senior officer or any person on scene who has gained sufficient situational awareness shall initiate Command and Control and develop a plan of action. Command and Control will provide direction, help manage resources, and make it possible to achieve the desired outcome. Early considerations of PATROL will assist with the Command and Control process (Los Angeles Police Department, Training Bulletin, Volume XLVII Issue 4, July 2018).*

*Line Supervision – Defined. A supervisor who has the specific responsibility of issuing directions and orders to designated subordinates shall be considered as having the duty of line supervisor and shall be held accountable for achieving conformance with the directions and orders that he/she issues (Los Angeles Police Department Manual, Volume 3, Section 135).*

*Incident Commander (IC) – In accordance with Department Policy, the IC sets the objectives, the strategy and directs the tactical response. Directing the tactical response means applying tactics appropriate to the strategy, assigning the right resources and monitoring performance (Los Angeles Police Department, Supervisor's Field Operations Guide, Volume 2, Emergency Operations Guide).*

Sergeant Covarrubias responded to the incident after Gabriel was taken into custody and was the first supervisor to arrive. Sergeant Covarrubias immediately began assessing the scene and began assigning duties. Sergeant Covarrubias addressed issues such as traffic control to preserve the crime scene and assigned officers to contain the area. Sergeant Covarrubias identified the primary unit, as well as all three officers who fired their service pistols and advised them they would each be assigned a supervisor to take their Public Safety Statements (PSS). Sergeant Covarrubias ensured each officer involved was monitored by him until the arrival of additional supervisors. Sergeant Covarrubias assigned a sergeant to each officer as the sergeants arrived. Sergeant Covarrubias maintained monitoring duties of Officer Malone and obtained a PSS from him.

Sergeant Vazquez separated, monitored, and obtained a PSS from Officer Hernandez.

Sergeant Grant separated, monitored, and obtained a PSS from Officer Mott.

Lieutenant Bautista met with Sergeant Covarrubias. Lieutenant Bautista declared himself the incident commander and communicated this change with Sergeant Covarrubias. Lieutenant Bautista coordinated CP set up and ensured that all involved officers' BWVs were secured at the CP.

The actions of Lieutenant Bautista, along with Sergeants Covarrubias, Vazquez, and Grant, were consistent with Department supervisory training and met my expectations of field supervisors during a critical incident.

### **Tactical Debrief**

In conducting an objective assessment of this case, the UOFRB determined, and I concur, that Officers Mott, Malone, Hernandez, and Mencias' tactics did not deviate from approved Department tactical training.

Each tactical incident also merits a comprehensive debriefing. In this case, there were areas identified where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

Although, it was determined that Officers Artiaga and Arias were not substantially involved in this incident and did not receive formal findings, the UOFRB recommended, and I concur, that they would benefit from attending the Tactical Debrief.

Therefore, I will direct that Officers Mott, Malone, Hernandez, Mencias, Artiaga, and Arias attend a Tactical Debrief and that the specific identified topics be discussed.

**Note:** Additionally, the Tactical Debrief shall also include the following mandatory discussion points:

- Use of Force Policy;
- Equipment Required/Maintained;
- Tactical Planning;
- Radio and Tactical Communication (including Code Six);
- Tactical De-Escalation;
- Command and Control;
- Lethal Force.

### **General Training Update (GTU)**

On September 5, 2019, Officers Mott, Malone, and Hernandez attended a General Training Update. All mandatory topics were covered.

### **Drawing/Exhibiting**

Department policy relative to drawing and exhibiting a firearm is: *"An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified"* (Los Angeles Police Department Manual, Volume No. 1, Section 556.80).



### **Officer Mott**

According to Officer Mott, he passed through the intersection, negotiated a U-turn, and drove northbound on Lombardy Boulevard, passing Alhambra Avenue. Officer Mott believed the situation was going to escalate to deadly force since Gabriel had already shot at them once. Officer Mott unholstered his service pistol with his right hand as he maneuvered his police vehicle with his left hand.

Officer Mott recalled,

*He takes one step forward and fires one round at our police vehicle.<sup>17</sup>*

*At that point, he travels toward the --to the north toward the back of our car at which point I point hit the gas, go through Alhambra and make a U-turn. As I make the U-turn and coming back, come back across Alhambra northbound suspect is running northbound along the cars and makes a westbound turn into the alley. At that point, I unholster my firearm based on the tactical situation and my reasonable belief that the situation to escalate to deadly force. He had already shot at us once.<sup>18</sup>*

### **Officer Malone**

According to Officer Malone, he believed Gabriel was trying to kill him and Officer Mott. Officer Malone believed the situation had escalated to the point where deadly force was justified. Officer Malone unholstered his service pistol as Officer Mott drove north through the intersection.

Officer Malone recalled,

*I remember the suspect walking off of the curb towards us. It was a male Hispanic wearing a black hoodie, blue jeans, his hand in his pocket. He started to walk towards the police vehicle and at that point he removed a firearm from his pocket, pointed it at us and shot. At - - at that point in time I believed he was trying to kill us and I believed that this situation had escalated to where deadly force would be justified so I unholstered my firearm.<sup>19</sup>*

### **Officer Hernandez**

According to Officer Hernandez, he was the passenger and his partner, Officer Mencias, was the driver. Officer Hernandez stated they were responding to the help call and heard gunfire over the radio. Officer Hernandez, upon turning onto Alhambra Avenue from Lombardy Boulevard, observed two officers coming towards their direction. Officer Hernandez heard an unidentified officer state, "Stop, stop, stop." Officer Hernandez stated Officer Mencias stopped their vehicle

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<sup>17</sup> Officer Mott, Page 8, Lines 23-24

<sup>18</sup> Officer Mott, Page 9, Lines 5-13.

<sup>19</sup> Officer Malone Page 7, Lines 6-14.

and, as Officer Hernandez was about to exit, he heard someone say, "Behind you." Officer Hernandez unholstered his service pistol.

Officer Hernandez recalled,

*Due to the nature of the call, sir. It was a man with a gun firing at officers. That's basic -- it was a tactical situation where deadly force would have been justified.<sup>20</sup> And as soon as we were about to exit out of our vehicle we hear, "Behind you." The moment I hear, "Behind you" and we turn around and where I started to unholster my --my pistol I seen the suspect standing south of me pointing a firearm and staring straight at me pointing a firearm at me.<sup>21</sup>*

#### **Officer Mencias**

According to Officer Mencias, he exited his vehicle and heard gunshots. While unholstering his service pistol, he redeployed around to his police vehicle and took cover behind the rear panel, next to Officer Hernandez. Officer Mencias could not observe Gabriel and did not observe Officer Hernandez's Officer involved Shooting (OIS).

Officer Mencias recalled,

*So as soon as I stepped out, like I said, smelled the gun powder in the air and I just heard shots fired. And I thought he was shooting at us. I was just outside. I had just gotten out, so I wasn't sure where he was shooting from and I was afraid he was going to come out from behind.<sup>22</sup>*

In this case, the UOFRB conducted a thorough review and evaluation of the reasonableness of Officer Mott's and Malone's, Drawing/Exhibiting. The UOFRB noted that Officers Mott and Malone initially drew their service pistols upon being ambushed and fired upon by Gabriel. Each officer was fearful for not only the safety of himself, but of each other as well.

The UOFRB conducted a thorough review and evaluation of the reasonableness of Officer Hernandez's, Drawing/Exhibiting. The UOFRB noted that Officer Hernandez knew he was responding to an active shooting and upon his arrival the circumstances escalated when he heard that the suspect was located behind him.

The UOFRB conducted a thorough review and evaluation of the reasonableness of Officer Mencias' Drawing/Exhibiting. The UOFRB noted that Officer Mencias knew he was responding to an active shooting and upon exiting the police vehicle he heard gunshots, smelled gun smoke, and believed that he was being shot at.

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<sup>20</sup> Officer Hernandez, Page 13, Lines 24-25 and Page 14, Lines 1-2.

<sup>21</sup> Officer Hernandez, Page 8, Lines 1-6.

<sup>22</sup> Officer Mencias Page 13, Lines 11-14 and Page 14, Lines 16-19.



Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience as Officers Mott, Malone, Hernandez, and Mencias while faced with similar circumstances, would reasonably believe that there was a substantial risk the situation may escalate to the point where deadly force may be justified.

Therefore, I find Officers Mott, Malone, Hernandez, and Mencias' Drawing/Exhibiting to be In Policy, No Further Action.

### **Use of Force – General<sup>23</sup>**

*It is the policy of this Department that personnel may use only that force which is "objectively reasonable" to:*

- *Defend themselves;*
- *Defend others;*
- *Effect an arrest or detention;*
- *Prevent escape; or,*
- *Overcome resistance*

*The Department examines reasonableness using Graham v. Connor and from the articulated facts from the perspective of a Los Angeles Police Officer with similar training and experience placed in generally the same set of circumstances. In determining the appropriate level of force, officers shall evaluate each situation in light of facts and circumstances of each particular case. Those factors may include, but are not limited to:*

- *The seriousness of the crime or suspected offense;*
- *The level of threat or resistance presented by the subject;*
- *Whether the subject was posing an immediate threat to officers or a danger to the community;*
- *The potential for injury to citizens, officers or subjects;*
- *The risk or apparent attempt by the subject to escape;*
- *The conduct of the subject being confronted (as reasonably perceived by the officer at the time);*
- *The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;*
- *The availability of other resources;*
- *The training and experience of the officer;*
- *The proximity or access of weapons to the subject;*
- *Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number officers versus subjects; and,*

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<sup>23</sup> Special Order No. 4, 2020 – Policy on the Use of Force - Revised, was adopted by the Department on February 5, 2020, after this incident occurred.

- *The environmental factors and/or other exigent circumstances (Los Angeles Police Department Manual, Volume 1, Section 556.10).*

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**Lethal Use of Force**

*Law enforcement officers are authorized to use deadly force to:*

- *Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or,*
- *Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or,*
- *Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury (Los Angeles Police Department Manual, Volume No.1, Section 556.10).*

**Officer Mott** – 9mm, eight rounds, in three sequences of fire, in an easterly direction.

**Sequence-One** – Two rounds in an easterly direction from an approximate distance of 133 feet and 6 inches.

According to Officer Mott, as he attempted to redeploy towards the building, Gabriel began firing at him from approximately fifty or sixty yards. Officer Mott observed Gabriel take cover behind a tree. Officer Mott utilized a two-handed grip on his service pistol and fired two or three rounds at Gabriel's center mass in an eastbound direction.

Officer Mott recalled,

*I look eastbound and see the suspect walking westbound towards our --towards our vehicle. I then verbalize to my partner, "He's right here. He's right here." I get out and make my way to the corner of the building that's on the northeast corner of Belleglade and Alhambra at which point he begins firing at me. I return fire and he then makes his way to a tree...<sup>24</sup>*

*50, 60 yards maybe... It was dark. Very dark... I could only see the dark outside, or the outline of a silhouette and muzzle flashes.<sup>25</sup>*

*Two or three rounds.<sup>26</sup>*

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<sup>24</sup> Officer Mott, Page 10, Lines 1-8.

<sup>25</sup> Officer Mott 2<sup>nd</sup> Transcript, Page 7, Lines 4, 7, and 13-17.

<sup>26</sup> Officer Mott, Page 20, Line 5.



**Sequence-Two** – Two rounds in an easterly direction from an approximate distance of 131 feet 8 inches.

According to Officer Mott, Gabriel was still taking cover behind the tree. Officer Mott observed Gabriel's silhouette from the waist up which included his arm, upper body, and head. Officer Mott utilized a two-handed grip, obtained a sight picture of Gabriel's center mass, and fired about four or five rounds at the center mass of Gabriel's body, in an east direction.

Officer Mott recalled,

*It was another about four or five... Center mass to his body... Two handed.<sup>27</sup>*

*When I hopped down is when I no longer perceived him as a threat, that I knew at that point he was --he was taking off. When I hopped off the ledge or that platform, that's when I had seen him leave.<sup>28</sup>*

According to Officer Mott, after being asked by FID detectives if he observed the suspect fleeing while he (Officer Mott) fired, Officer Mott stated, "No."<sup>29</sup>

According to Officer Mott, when asked by FID detectives if he could still observe Gabriel from the top of the cement platform Officer Mott stated, "Yes."<sup>30</sup>

According to Officer Mott, when asked by FID detectives if he fired any rounds at Gabriel as he fled, Officer Mott stated, "No."<sup>31</sup>

**Sequence-Three** – Four rounds in an easterly direction from an approximate distance of 131 feet, 8 inches.

According to Officer Mott, he stepped on top of an elevated platform to his left to get a better visual of Gabriel. While Officer Mott did so, Gabriel fired at least one round in his direction from behind the tree. Officer Mott heard a window shattering from a business on the northwest corner of the intersection. Officer Mott utilized a two-handed grip and returned fire again.

Officer Mott recalled,

*...he then makes his way to a tree and takes cover behind a tree and starts firing again.<sup>32</sup>*

*In order to get a better visual on him there's an elevated platform just to my left. I get on top of the elevated platform. As he continues to fire, he --I hear the --a window to the building that's on the northwest corner of Alhambra and Belleglade shatter and I return fire again.<sup>33</sup>*

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<sup>27</sup> Officer Mott, Page 20, Line 19 & 22; Page 21, Line 1.

<sup>28</sup> Officer Mott 2<sup>nd</sup> Transcript, Page 7, Lines 20-24.

<sup>29</sup> Officer Mott 2<sup>nd</sup> Transcript, Page 6, Line 17.

<sup>30</sup> Officer Mott 2<sup>nd</sup> Transcript, Page 8, Line 3.

<sup>31</sup> Officer Mott 2<sup>nd</sup> Transcript, Page 9, Line 2.

<sup>32</sup> Officer Mott, Page 10, Lines 7-8.

<sup>33</sup> Officer Mott, Page 10, Lines 8-15.

**Officer Malone** – 9mm, seven rounds in an easterly direction from an approximate distance of 152 feet.

According to Officer Malone, he heard one or two shots being fired and observed muzzle flash, which illuminated Gabriel. Officer Malone redeployed back to his police vehicle for cover. Officer Malone believed Gabriel was trying to kill him and Officer Mott. Officer Malone wanted to protect himself and his partner from the eminent threat of death or serious bodily injury. Approximately two seconds after he heard Gabriel fire, Officer Malone utilized a two-hand grip and fired his service pistol once, in an easterly direction. Officer Malone stated that after a momentary lull, Officer Malone reassessed then continued firing approximately six rounds to stop the threat.

Officer Malone recalled,

*When I start to redeploy from the police vehicle that's when I hear the shot. I see the muzzle flash and it illuminates the suspect and I saw the suspect firing at my partner. At that point, I redeployed back towards cover behind the police vehicle. I still see the suspect and that's when to protect myself and my partner from the eminent threat of death or serious bodily injury I fired to stop the threat... after I shoot, I reassess and asking Adam where --if he --if he sees him, where he's at. If he has any --any --anything.<sup>34</sup>*

*He can see me and my partner and that he's trying to kill us... Because I was protecting myself and Adam. I thought this guy was trying to kill us.<sup>35</sup>*

*Approximately six... I would say rapid... I remember shooting once and then maybe a tiny lull and then continued firing.<sup>36</sup>*

*We then observe the suspect starting to run eastbound in east south direction.<sup>37</sup>*

According to Officer Mott, after being asked by FID detectives if he reassessed between rounds one through seven, Officer Mott stated that yes.<sup>38</sup>

**Officer Hernandez** – 9mm, seven rounds, in two sequences of fire, in a southeasterly direction from an approximate distance of 53 feet.

**Sequence-One** – One round, in a southeasterly direction from an approximate distance of 53 feet.

According to Officer Hernandez, he observed Gabriel staring straight at him. Officer Hernandez observed Gabriel standing south of him. Officer Hernandez observed Gabriel pointing a firearm north, at him, from an approximate distance of two car lengths. Officer Hernandez observed

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<sup>34</sup> Officer Malone, Page 8, lines 19-25 and Page 9, Line 1-4.

<sup>35</sup> Officer Malone, Page 21, Lines 3-4 and Page 22, Lines 19-22.

<sup>36</sup> Officer Malone, Page 23, Lines 7, 13, and 17-18.

<sup>37</sup> Officer Malone, Page 9, Line 5.

<sup>38</sup> Officer Malone, Page 23, Line 22.



Gabriel holding the gun in a shooting motion with his hands raised towards his upper chest and his whole-body in a shooting stance. Officer Hernandez was in fear for his life and believed Gabriel was an immediate threat and was going to kill him. Officer Hernandez utilized a two-hand grip and fired one round at Gabriel. After firing, Officer Hernandez ducked and took cover behind his police vehicle's rear panel.

Officer Hernandez recalled,

*He was pointing the gun north towards me... The suspect was holding the gun in a shooting - in a shooting motion. His hands were raised towards his upper chest and you could see the pistol pointed at in like at me. His face, his whole-body shooting stance and he was --he was locked on me... he's going to kill me and I was in fear for my life.<sup>39</sup>*

*I seen the suspect standing south of me pointing a firearm and staring straight at me pointing a firearm at me. And that's when I fired what I believed was one round, took cover.<sup>40</sup>*

**Sequence-Two** – Six rounds, in a southeasterly direction from an approximate distance of 53 feet.

According to Officer Hernandez, after taking cover, he came back, about a split second later, and observed the firearm was still pointed at him. Officer Hernandez fired four more rounds at Gabriel. Officer Hernandez observed Gabriel drop down and observed his handgun was down. Officer Hernandez stated Gabriel was utilizing a grabbing motion to reach his handgun.

Officer Hernandez recalled,

*...came back and fired four more rounds... split second.<sup>41</sup>*

*...then I shot four more rounds....<sup>42</sup>*

*...(I) seen him just drop down and then that's when I just seen him down, pistol down and him swarming to try to get the pistol.<sup>43</sup>*

The UOFRB noted that Officers Mott and Malone were ambushed and fired upon by Gabriel in an unprovoked ambush. The bullet fired at them traveled through the police vehicle's front passenger compartment where both Officers Mott and Malone were seated. Officers Mott and Malone used lethal force to defend their lives as Gabriel shot at them, the scene was dynamic and evolving as Gabriel fled in multiple directions, and fired at the officers an additional occasion. The officers utilized a reasonable amount of lethal force to stop the deadly threats.

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<sup>39</sup> Officer Hernandez, Page 14, Line 5 and 9-13; Page 15, Lines 19-20.

<sup>40</sup> Officer Hernandez, Page 8, Lines 4-8.

<sup>41</sup> Officer Hernandez, Page 16, Lines 3-4.

<sup>42</sup> Officer Hernandez, Page 8, Lines 8.

<sup>43</sup> Officer Hernandez, Page 17, Lines 5-7 and Line 9.

The UOFRB noted that Officer Malone stated that he observed muzzle flash emanating from Gabriel's handgun. Officer Malone feared for Officer Mott's life, as well as his own. The UOFRB also noted that Officer Malone believed that Gabriel posed a threat of serious bodily injury or death.

The UOFRB noted that Officer Hernandez stated Gabriel was standing in a shooting position and pointing the handgun at him as he exited the police vehicle. Officer Hernandez was in fear for his life. The UOFRB also noted that Officer Hernandez fired in self-defense to stop Gabriel's violent actions directed toward him.

The UOFRB noted the officers were aware of their background during their respective OIS's and their cognizance of public safety. In addition, each officer demonstrated control and composure throughout the event to ensure the safety of the community and others.

Based on the totality of the circumstances, the UOFRB determined, and I concur, that an officer with similar training and experience would reasonably believe Gabriel's actions presented an imminent threat of death or serious bodily injury and that the Use of Lethal Force would be objectively reasonable.

Therefore, I find Officers Mott, Malone and Hernandez's Use of Lethal Force to be In Policy, No Further Action.

#### **Additional/Equipment**

**Profanity** – The FID investigation revealed that Officer Hernandez utilized profanity when giving orders to Gabriel while Gabriel was being taken into custody. This issue was brought to the attention of Captain S. Monico, Serial No. 30364, Commanding Officer, Hollenbeck Patrol Division, who advised that this issue was addressed through informal training. The Commanding officer of Operations Central Bureau and the Director of the Office of Operations concurred with this action. As such, I deem no further action is necessary.

**DICVS Activation** – The investigation revealed that Officers Mott and Malone did not activate their DICVS during this incident. This issue was brought to the attention of Captain Monico who reviewed the circumstances of this OIS and noted that Officers Mott and Malone were ambushed in this incident. Officer Mott and Malone's priority was the preservation of their lives. Due to circumstances of this incident, Captain Monico recommended no further action. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

**Documentation of Categorical Use of Force** – Sergeant Vazquez incorrectly indicated in his Sergeant's Daily Log that he relinquished the monitoring of Officer Hernandez to Sergeant Cooper, Serial No. 32659, Hollenbeck Patrol Division. The correct name for the sergeant was Sergeant Hooper.



Sergeant Grant did not note which officer she monitored in her Sergeant's Daily Log.

These issues were brought to the attention of Captain Monico who advised that they were addressed through informal training. The Commanding Officer of OCB and the Director of OO concurred with this action. As such, I deem no further action is necessary.

### **Audio/Video Recordings**

Digital In-Car Video System (DICVS) – Officers Mott and Malone's police vehicle was equipped with DICVS, but was not activated at the time of the incident. Officers Mencias and Hernandez' police vehicle was equipped with DICVS and was activated during the incident. However, due to the positioning of the vehicle, the OIS was not visually captured and only Officer Hernandez' shots can be heard. Responding units' DICVS did not capture the OIS.

Body Worn Video (BWV) – All responding Officers had their BWV powered on and activated during the incident. Officers Mott, Malone, and Hernandez captured their respective OIS incidents. Officers Mott and Malone's BWV captured their broadcasts which were not transmitted to CD due to multiple officers attempting to broadcast simultaneously. Officers Mott and Malone's BWV also captured Gabriel firing at them. Officer Mencias' BWV captured the sound of Officer Hernandez firing his rounds.

**Outside Video** – The FID investigation revealed that four separate locations captured footage of the incident. A residential surveillance system at 5137 Alhambra Avenue captured Gabriel running west, firing three rounds in a westerly direction, then running eastbound on Alhambra Avenue. The Brooklyn Smog Center and Auto Registration at 5197 Alhambra Avenue had surveillance footage which captured Gabriel firing at Officers Mott and Malone on Lombardy Boulevard north of Alhambra Avenue, as well as Gabriel running into the east/west alley, north of Alhambra Avenue. The Organica Creations business at 5201 Alhambra Avenue captured the first round that Gabriel fired at Officers Mott and Malone. The Ideal Cabinets business at 5110 Alhambra Avenue captured Officers Mott and Malone's OIS incident with Gabriel.

Respectfully,

  
MICHEL R. MOORE  
Chief of Police

Date: 6-10-20

LOS ANGELES POLICE DEPARTMENT  
USE OF FORCE REVIEW BOARD REPORT

INC No. 041-19	CF No.	DR No.
SHOOTING		

REVIEW BOARD INFORMATION

Location of Incident N. Bellgrade Ave & E. Alhambra Ave	RD 438	Date of Incident August 18, 2019	Date and Time of Board Review May 18, 2019 1230 Hours
Chair Assistant Chief B. Girmala, Serial No. 24916	Signature of Approving Board Members:		
Member (Office Representative) Commander M. Rimkunas, Serial No. 32211			
Member (Police Sciences and Training Bureau) Commander R. Flores, Serial No. 30995			
Member (Bureau) Deputy Chief V. Palazzolo, Serial No. 27433			
Member (Peer) Police Officer A. West, Serial No. 39121			
Presenting Commanding Officer Captain S. Monico, Serial No. 30364			
Notes:			
<p style="text-align: center;">RECEIVED JUN 12 2020 OFFICE OF THE INSPECTOR GENERAL</p>			
Additional Considerations:			
Modification to Present Policy, Practices or Training:			
<p style="text-align: right;"> <input checked="" type="checkbox"/> COP Date Signed: 6/10/20  <input type="checkbox"/> PC Date Submitted:         </p>			

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 POLICE COMMISSION  
 2020 JUN 10 PM 2:50



<b>Employee (Last Name, First, Middle)</b> Mott, Adam		<b>Serial No.</b> 42551	<b>Rank/Class</b> Police Officer II	<b>Incident No.</b> 041-19
<b>Length of Employment</b> 3 years, 3 months	<b>Current Division</b> Hollenbeck		<b>Time in Current Division</b> 1 year, 3 months	
<b>Use of Force Review Board</b>		<b>Chief of Police</b>		<b>Police Commission</b>
<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
<b>Drawing and Exhibiting the Firearm</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Drawing and Exhibiting the Firearm</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Drawing and Exhibiting the Firearm</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Less-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Less-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Less-Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Non-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Non-Lethal Use of Force</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Non-Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Unintentional Discharge</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)		<b>Unintentional Discharge</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)		<b>Unintentional Discharge</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)
<b>Other Issues</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Other Issues</b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Other Issues</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
Notes:				
<b>Final Adjudication for Out of Policy/ Administrative Disapproval Finding</b> <input type="checkbox"/> Extensive Retraining <input type="checkbox"/> Notice to Correct Deficiencies <input type="checkbox"/> Personnel Complaint <input type="checkbox"/> Employee's Work History Reviewed		Notes:		

**\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.**

<b>Employee (Last Name, First, Middle)</b> Malone, Michael		<b>Serial No.</b> 42698	<b>Rank/Class</b> Police Officer II	<b>Incident No.</b> 041-19
<b>Length of Employment</b> 2 years, 11 months		<b>Current Division</b> Hollenbeck		<b>Time in Current Division</b> 1 year, 5 months
<b>Use of Force Review Board</b>		<b>Chief of Police</b>		<b>Police Commission</b>
<b><u>Tactics</u></b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		<b><u>Tactics</u></b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		<b><u>Tactics</u></b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
<b><u>Drawing and Exhibiting the Firearm</u></b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Drawing and Exhibiting the Firearm</u></b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Drawing and Exhibiting the Firearm</u></b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b><u>Lethal Use of Force</u></b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Lethal Use of Force</u></b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Lethal Use of Force</u></b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b><u>Less-Lethal Use of Force</u></b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Less-Lethal Use of Force</u></b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Less-Lethal Use of Force</u></b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b><u>Non-Lethal Use of Force</u></b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Non-Lethal Use of Force</u></b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b><u>Non-Lethal Use of Force</u></b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b><u>Unintentional Discharge</u></b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)		<b><u>Unintentional Discharge</u></b> <input checked="" type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)		<b><u>Unintentional Discharge</u></b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Accidental <input type="checkbox"/> Negligent (Administrative Disapproval)
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<b><u>Final Adjudication for Out of Policy/ Administrative Disapproval Finding</u></b> <input type="checkbox"/> Extensive Retraining <input type="checkbox"/> Notice to Correct Deficiencies <input type="checkbox"/> Personnel Complaint		Notes:		
<input checked="" type="checkbox"/> Employee's Work History Reviewed				

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<b>Employee (Last Name, First, Middle)</b> Hernandez, Oscar		<b>Serial No.</b> 43638	<b>Rank/Class</b> Police Officer I	<b>Incident No.</b> 041-19
<b>Length of Employment</b> 1 years, 0 months		<b>Current Division</b> Hollenbeck	<b>Time in Current Division</b> 0 years, 6 months	
<b>Use of Force Review Board</b>		<b>Chief of Police</b>		<b>Police Commission</b>
<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval		<b>Tactics</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> Tactical Debrief <input type="checkbox"/> Administrative Disapproval
<b>Drawing and Exhibiting the Firearm</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Drawing and Exhibiting the Firearm</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Drawing and Exhibiting the Firearm</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input checked="" type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)		<b>Lethal Use of Force</b> <input type="checkbox"/> Does Not Apply <input type="checkbox"/> In Policy (No Further Action) <input type="checkbox"/> Out of Policy (Administrative Disapproval)
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Notes:

**Final Adjudication for Out of Policy/  
Administrative Disapproval Finding**

- ☐ Extensive Retraining  
☐ Notice to Correct Deficiencies  
☐ Personnel Complaint

☒ Employee's Work History Reviewed

Notes:

**\*A Tactical Debrief shall be conducted for all Categorical Use of Force Incidents.**



